

DETAILED ACTION

Applicant's response filed 3 Aug. 2011 is acknowledged and has been entered into the case.

Claims 26 and 27 are considered here.

In view of the amendments to the claims and the arguments presented, the rejections of record under 35 USC § 102(b) over Chaterjee et al. are hereby withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,897,426 to Llinas et al.

Llinas discloses a method of administering a C₃-C₁₀ alkyl alcohol, such as octanol, to a mammalian cell or a living mammalian subject (Examples 4 and 7-9; claims 1-21). Octanol was administered to cells at a concentration of 1 mM (Examples 4, 7 and 8) and to subjects at a concentration of 10 mM (Example 9). In the case of living subjects, octanol is preferably administered in an amount sufficient to generate a blood concentration of up to 1 mM (col. 8, lines 11-13). Octanol concentrations up to 1 mM coincide with the range shown in the specification to modulate cell cholesterol levels (Specification, Fig. 4). Because the method of Llinas includes each of the steps

of the instant claims, the method of Llinas would be expected to increase or decrease cellular cholesterol levels as recited in the instant claims. Thus, Llinas inherently anticipates claims 26 and 27.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT YAMASAKI whose telephone number is (571)270-5467. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Yamasaki/
Examiner, Art Unit 1657

/Ralph Gitomer/
Primary Examiner, Art Unit 1657